



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,726	12/04/2003	Pekka Kuure	879A.0016.U1(US)	6915
29683 7590 04/01/2009 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			EXAMINER SMITH, JOSHUA Y	
			ART UNIT 2419	PAPER NUMBER
			MAIL DATE 04/01/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/727,726	Applicant(s) KUURE ET AL.	
	Examiner JOSHUA SMITH	Art Unit 2419	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-22 and 24-30.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Hassan Kizou/
 Supervisory Patent Examiner, Art Unit 2419

Continuation of 11. does NOT place the application in condition for allowance because: Applicants submit that in the system of Forssell there appears to always exist knowledge of how long the silent (passive) period actually is, and a value N defines how long the passive period will be, and the transmitting terminal can independently define this value N which is transmitted to the network, and, therefore, in Forssell there is a specific way to prolong or shorten the passive period if a need arises. Examiner respectfully disagrees this is sufficient for the withdrawal of the rejection of Applicants' claims. If an event occurs where a previously calculated silent period is no longer valid, such as a user changing their mind concerning when to use a channel, and a silent period needs to be added, a null data frame as taught by Bender can be implemented in the next active block and then another silent period can be restarted for a transmitting terminal.

Applicants also submit that a reason not to use the "null data packets" of Bender is that it is against the teachings of Forssell, and that Forssell teaches that during a passive period of a terminal the radio resources of that terminal can be allocated to other terminals, and this is advantageous because the radio channel is capacity limited, by doing so more users can utilize the one and same radio channel. Examiner respectfully disagrees this is sufficient for the withdrawal of the rejection of Applicants' claims. A null data frame as taught by Bender can be implemented in the next scheduled active block and allow activity in an active block when a user unexpectedly decides not to use an active block, but where activity of some kind is required in an active block or the network will treat a connection as broken.

Applicants also submit that "a variable guard time" in Soulabail, whose length can vary between the different transmission directions (downlink and uplink), would limit the network's transmission capacity. Examiner respectfully disagrees this is sufficient for the withdrawal of the rejection of Applicants' claims. Forssell already teaches a controlled length for a silent period, and a variable guard time as taught by Soulabail could be implemented in conjunction with this controlled silent period of Forssell.

Applicants also submit that utilized transmission media (cabled IP network) of Simard is not capacity limited, the depicted alternative procedure of sending empty voice data packets may be feasible. Examiner respectfully disagrees this is sufficient for the withdrawal of the rejection of Applicants' claims. Although a cabled IP network can be considered to have more capacity than a wireless network, a cabled IP network does not have unlimited capacity, and examiner respectfully notes that cabled IP networks control the occupancy of this capacity so that it is more efficiently utilized.